

ENTERED

February 01, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JEAN FISHER PHILLIP,

Plaintiff,

vs.

TEXAS MUTUAL INSURANCE
COMPANY AND L.C. PERSONNEL INC.,

Defendants.

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CIVIL ACTION NO. H-21-3364

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION
AND GRANTING DEFENDANT'S MOTION TO DISMISS**

This court has reviewed the Memorandum and Recommendation of United States Magistrate Judge Sam Sheldon signed in November 2022 and made a *de novo* determination. FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b)(1)(C); *United States v. Wilson*, 864 F.2d 1219 (5th Cir. 1989). Based on the pleadings, the record, and the applicable law, the court adopts the Memorandum and Recommendation as this court's Memorandum and Order. This court finds and concludes that dismissal was properly granted and the complaint properly dismissed without leave to amend because the plaintiff has not exhausted her administrative remedies. The dismissal is without prejudice to the plaintiff refiling after she exhausts. The remaining motions are denied as moot. The remaining claims are dismissed without prejudice.

SIGNED on February 1, 2023, at Houston, Texas.



Lee H. Rosenthal
United States District Judge